

REMARKS

The Final Office Action mailed October 7, 2004 has been received and reviewed. Claims 10, 12-16 and 18-29 are pending and stand rejected as being anticipated by the Pethö reference. Claims 10 and 20 are amended for clarification purposes in light of the arguments previously presented, and as presented herein again. For the reasons stated below, the Applicants submit that the claims distinguish over the reference, are not anticipated by the reference, and are in condition for allowance.

Summary Of Telephone Interview As Required Under MPEP § 713.04

On October 22, 2004, the undersigned representative initiated a telephone call to the Examiner to request further clarification of the Examiner's continuing rejection in light of the previous amendments which, the Applicants believed, placed the claims in full condition for allowance. The undersigned repeated the arguments presented in the immediately preceding Office Action Response dated August 10, 2004 and pointed out to the Examiner how claims 10 and 15 distinguish over the Pethö reference. The Examiner indicated that he would have to review the Pethö reference again upon the submission of a response to the Final Office Action. No agreement was reached, therefore.

Rejection Of Claims 10, 12-16 and 18-29 Under 35 U.S.C. § 102(b)

Claims 10, 12-16 and 18-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Pethö. The Examiner repeats verbatim the previous basis for rejection

and, responsive to the prior amendments and arguments presented by the Applicants, states that "clean room 3 is separate from tunnel 14; see figure 2." Respectfully, the Examiner previously noted in the Examiner's communication mailed November 11, 2003 that tunnel 14 is part of the clean room 3, citing column 4, lines 6-9 of the Pethö disclosure which states "[B]oth the supply tunnel and the discharge or outfeed means are provided with a known sealing lock arrangement (not shown) for maintaining sterility and a suitable pressure. . .in the tunnel 14." Claim 10 was previously amended to clarify that the final closing station is downstream from and outside the clean room. However, as best understood, it appears that the Examiner now contends that tunnel 14 is outside and not part of the clean room so as to establish Pethö as an anticipating reference. The Applicants respectfully submit that tunnel 14 of Pethö cannot be argued in the alternative to be both in the clean room and not in the clean room. Claim 10 has yet again been amended to clarify that the final closing station is outside a sterile environment, thereby distinguishing the required structure of claim 10 over the Pethö device. That is, Pethö discloses that the filling device is structured with apparatus to effect final enclosure of the containers while in the sterile environs of the tunnel 14. See, column 13, lines 40-45 and column 4, lines 2-9, the combination of which make clear that the containers of Pethö are wrapped a second time in tunnel 14 under sterile conditions. Claims 10, 12-16, 18 and 19 are, therefore, distinct over the Pethö reference and are neither anticipated nor obviated by Pethö.

Regarding claims 15 and 16, the Examiner repeats verbatim the prior rejection citing column 4, lines 6-9 of Pethö which states "[B]oth the supply tunnel and the

discharge or outfeed means are provided with a known sealing lock arrangement (not shown) for maintaining sterility and a suitable pressure. . .in the tunnel 14,” and, the Examiner states, “therefore, the filled and sealed bottles when returned to tunnel 14 are further cleaned (exterior) with a positive pressure before final discharge.” Responsive to the Applicant’s prior argument that Pethö fails to disclose any means for washing the exterior of the filled and stoppered bottles, the Examiner responded that sterile air is considered a fluid material. The Applicants agree with the Examiner that sterile air is a fluid material. Nonetheless, the fact remains that nowhere in the Pethö disclosure is there any teaching or suggestion that the Pethö device is structured with a cleaning station downstream from the filling station for washing the exterior of filled and stoppered bottles. Respectfully, that portion of the Pethö reference cited by the Examiner in support of exterior washing of the bottles (i.e., column 4, lines 6-9) provides no such disclosure. The entire filling and stoppering process carried out by the Pethö device is described in column 11, line 63 through column 14, line 52, and nowhere is there a description, teaching or suggestion that the exterior of the filled and stoppered bottles are washed. Indeed, as argued previously, the Pethö reference describes that “the provision of two closing valves 45 and 70 (on the filling lines) prevents the occurrence of subsequent running or dripping of the liquid preparation, which would otherwise contaminate the mouths and outer surfaces of the bottles.” (See, column 12, line 66 through column 13, line 2; see also,) Consequently, Pethö provides no teaching of cleaning or washing the bottles after stoppering. While the disclosure describes “steam and washing lines for sterilization purposes,” they are described as

used for cleaning the device, not the stoppered bottles, and the description of sterile, inert gas at elevated pressure in the tunnel 14 is provided for maintaining sterile conditions in the tunnel 14 and is not disclosed as emanating from or associated with any structure provided for washing the exterior of the filled and stoppered containers. Because Pethö fails to teach structure for washing the exterior of the filled and stoppered containers, Claims 15 and 16 are not anticipated, or obviated, by Pethö.

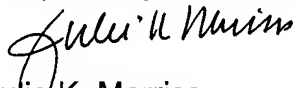
Regarding claim 20, the Examiner states, responsive to the Applicant's prior arguments, that sealing and closing are analogous steps and that Applicant does nothing to differentiate between the two. Claim 20 is amended to clarify the sealing process of the claimed method as supported by the present specification at page 6, lines 13-38. Pethö describes a first sealing of the container within the clean room followed by a closing or enclosure of the container with a cover while still in a sterile environment, thereby teaching or suggesting that the first sealing is insufficient to prevent contamination. As amended, claim 20 requires an initial closing and sealing of the containers in the sterile environment of the clean room to provide complete sealing of the containers followed by a second sealing outside a sterile environment. Page 6, lines 13-38 of the present specification note that the sealing process in the clean room environment is carried out in such a manner that the final closing may be done outside the sterile environs of the clean room while still maintaining sterility (i.e., non-contamination) of the container contents. By contrast, Pethö teaches that the final closing is carried out in a sterile environment, thereby suggesting that the initial stoppering is insufficient to seal the bottle's contents against contamination. Claim 20

is, therefore, not anticipated by Pethö.

CONCLUSION

Pethö fails to disclose the filling apparatus and methods as claimed in the application and do not anticipate the claims, therefore. The Applicants submit that claims 10, 12-16 and 18-29 present patentable subject matter. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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